IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.704/01

Bhagwan Singh **Versus** State

DATE OF ORDER :: 19/09/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Anil Jain, for petitioner
Mr. Arun Sharma, Public Prosecutor for State

***

Instant petition has been filed by petitioner seeking possession of his Tractor No.RJ-11/R-3298 along with trolley which was registered in the name of accused-petitioner, was initially seized under the provisions of Rajasthan Excise Act, 1950, but after investigation, a negative Final Report was filed by the Investigating Officer which was duly accepted by the competent court of jurisdiction, but his vehicle was not released by learned trial Judge on the premise that since it was seized under Excise Act, possession of which can be handed over to him u/s.69 which provides a complete mechanism for release of vehicle under the Act. The Court of Revision also while taking note of Sections 69(4) & (6) of the Act, 1950 rejected his revision petition vide order dated 3rd July, 2001.

The vehicle of petitioner i.e. Tractor No.RJ-11/R-3298 along with trolley which was registered in his name, was seized on account of FIR No.72/01 which was registered against him for offence u/s.19/54 under Excise Act, but after investigation, Final Report No.15/01 was

submitted, which was accepted by the Court of Competent jurisdiction and after its due acceptance, proceedings were dropped.

Application was filed by petitioner u/s.452 Cr.P.C. for release of his vehicle which was seized under Excise Act with respect to confiscation and release of vehicle. Section 69 is a complete Code, provides mechanism for release of such vehicles which are seized under the provisions of the Act, 1950.

Once the FR was submitted after investigation and accepted by competent court of jurisdiction, the petitioner in the normal course was under an obligation to submit application u/s.69(4) & (6) of the Act, 1950 for release of his vehicle, but due to legal advice which has been extended to him, the procedure provided under law has not been taken note of by him for the purpose of release of his vehicle, but when no case is pending against him, vehicle in the ordinary course was required to be released.

It is true that the inherent powers u/s.482 Cr.P.C. can be exercised only when no remedy is available to the litigant and certainly have to be exercised sparingly. In the instant case, the remedy was available with the petitioner to submit application for release of his vehicle u/s.69 of Excise Act but looking to the fact that vehicle was seized in 2001 and no case is pending against him, still if he is deprived to get his vehicle released, it will certainly cause great

injustice to him and this court considers appropriate that to secure ends of justice, it will be proper that his vehicle be released.

On the last occasion, opportunity was granted to counsel for petitioner to find out as to whether a formal application under Excise Act has been submitted by him for release of vehicle or not. Counsel submits that despite his best efforts, he has not been able to get any information from his client. This Court is proceeding on assumption that the vehicle must have not been released by now and is under custody of the complainant.

While upholding the decision of learned trial Judge that mechanism provided u/s.69 has to be adopted by him in the facts of instant case this court considers appropriate to direct the Excise Department to release the vehicle of petitioner i.e. Tractor No.RJ-11/R-3298 along with trolley which was seized in relation to FIR No.72/01 in regard to offence u/s.19/54 of Excise Act, if not released so far, after complying with the necessary formalities forthwith.

With the above observations, the misc. petition stands disposed of.

[AJAY RASTOGI],J.